

SERIAL NO.: 10/666,990

ART UNIT: 2872

## REMARKS

The undersigned attorney for the applicants thanks the Examiner for his courtesy while attempting to coordinate an in-person interview to discuss the case. After further review, it was concluded that a further refinement of the claim language would make it possible to more clearly distinguish the prior art. Accordingly, a Request for Continued Examination has been filed concurrently with this response to the final office action.

In the final action, the Examiner maintained his rejection of all pending claims as either anticipated by or obvious in view of the prior art. Specifically, Claims 1-3, 5, 8, 18-20, 22 and 25 stand rejected under 35 U.S.C. 102(a) as anticipated by Tafas et al. (U.S. Patent No. 6,320,174); and Claims 4, 6, 7, 17, 21, 23, 24 and 34 stand rejected under 35 U.S.C. 103(a) as unpatentable as obvious over Tafas ('174). After consideration of the Examiner's new action, the applicants accept his view that the single array shown in Fig. 3 of the Tafas patent can be viewed broadly as a combination of two arrays. Therefore, Claims 1 and 18, the patentability of which was argued in the previous response, have been cancelled.

The applicants believe that the present invention is nevertheless distinguishable from the three embodiments (Figs. 1, 3 and 5) of the Tafas microscope in several respects. Tafas describes a

SERIAL NO.: 10/666,990

ART UNIT: 2872

microscope wherein the imaging process is carried out by a sequential, step-and-repeat, x-y scan (see col. 4, lines 35-40). The applicants' invention images the object during a uni-dimensional scan conducted over the object. Accordingly, this feature has been recited in amended Claim 2 ("wherein said direction of scan is implemented along a single dimension.")

If the array of microscopes shown by Tafas is taken broadly as corresponding to two distinct two-dimensional arrays (thereby meeting the original claim language of the present invention), each such array would necessarily image only different portions of the object during a scan. In fact, as described in col. 4, lines 55-67, the stage is moved from position to position ( $x_1, y_1$  to  $x_2, y_2$ , for example), so that any area of the object is not seen multiple times by different objectives. Instead, the partial images acquired at each step by the presumed arrays are combined to produce an image of the whole object (col. 5, line 67, to col. 5, line 12). In contrast, because of the very nature of the applicants' microscope, each array of the invention sequentially scans and images the same portions of the object. Accordingly, this distinguishing feature has also been recited in amended Claim 2 ("said microscope arrays sequentially scan and image a same area of the object during said scan.")

Another difference is believed to lie in the different mode of

SERIAL NO.: 10/666,990

ART UNIT: 2872

operation used during a scan for each array of the present invention, as also recited in amended Claim. Tafas discloses individual z-axis adjustment for focusing each objective in the array (as may be necessary by virtue of having multiple objectives side-by-side imaging different portions of the object). See col. 4, lines 8-31. Even accepting a different focal adjustment to correspond to the "different modes of operation" claimed by the applicants, though, it is clear that the Tafas microscope could produce only a single image of the object during a scan. In contrast, the applicants' invention produces different images corresponding to such different modes of operation (which are then combined by the claimed "mode implementation system"). Accordingly, amended Claim 2 also recites that "said microscope arrays are configured to operate according to different modes of operation of the imaging system and produce correspondingly different images during said scan of the scanning mechanism."

Method Claim 19 has been similarly amended to recite the same additional limitations. The original limitations of Claims 1 and 18 have been incorporated into Claims 2 and 19, respectively, in a slightly modified language believed to be clearer and more reflective of the differences between the present invention and Tafas. Claim 18 has been cancelled.

Claims 8 and 25 have been cancelled and the other remaining

SERIAL NO.: 10/666,990

ART UNIT: 2872

dependent claims have been amended, when necessary, to conform to the new language introduced by amendment in Claims 2 and 19.

Inasmuch as the Tafas devices are not believed to anticipate the present invention, as claimed in amended Claims 2 and 19, no obvious modification would produce the various embodiments claimed in the dependent claims. In addition, as indicated in the reply to the first office action, Tafas teaches a system wherein a single image of the object is produced by a step-and-repeat scanning process. Therefore, it teaches away from the method of the invention wherein multiple images of the object are acquired during a single scan.

In view of the foregoing, the applicants believe that all remaining claims are in allowable form and respectfully request reconsideration of the rejections.

A Petition for a three-month extension of time to respond to the office action is attached with a completed Credit Card Payment Form to authorize charging the fee to a credit card. Please charge any other amount deemed to be due with this response, or credit any overpayment, to our Deposit Account No. 04-1935.

Respectfully submitted,



02/05/2006 20:17 5205776988

DURANDO LAW OFFICE

PAGE 19

SERIAL NO.: 10/666,990

ART UNIT: 2872

Antonio R. Durando  
Reg. No. 28,409

520-243-3383 Direct Phone  
520-577-6988 Direct Fax